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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,798	02/13/2002	James M. Kain	20341-69447	7148
23643	7590	06/04/2004	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			VU, STEPHEN A	
		ART UNIT	PAPER NUMBER	
		3636		

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/074,798	KAIN, JAMES M.
	Examiner	Art Unit
	Stephen A Vu	3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 March 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) 7,8,15 and 22-24 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6,9-14,16-21, and 25-26 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 16 July 2002 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input checked="" type="checkbox"/> Other: <u>Appendices A &amp; B (#6,705,676)</u> .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 9-10, 12-14, 16-21, and 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Berringer et al.

Berringer et al show a seat mount comprising a base (10) having sides, an anchor strap belt including a strap (W), opposite end portions, and a clasp (L) coupled to each end portions, and a leash (70) coupled to the base and to the anchor belt between sides of the base (see Appendix A- Figure 9). Please note that the phrases "for use with both a vehicle seat and anchor mounts provided in or near the vehicle seat" and "adapted to be coupled to one of the anchor mounts" are considered to be functional language, and therefore, do not have any patentable weight.

With claim 2, the base has a pair of openings and the anchor belt is threaded through the openings to position the base in an anchored position (see Appendix B – Figure 3).

With claim 3, the base has a base bottom, a front portion (40F) coupled to the base bottom, a first side wall (40S) extending upwardly from the base bottom along one edge of the front portion, and a second side wall (40S) extending upwardly from the base bottom along an opposite edge of the front portion, and wherein each side wall has one of the openings.

With claim 4, the base includes a slot through each side wall (see Appendix B - Figure 3).

With claims 5 and 19, the strap has a central portion between each end portion. The base has a base bottom. The leash (70) is coupled to the central portion of the strap (W) and to the base bottom of the base.

With claims 6 and 20, the base bottom has a top surface and the leash is coupled to the top surface of the base bottom.

With claim 9, Berringer et al disclose a conventional fastener (F) is provided for coupling the leash to the base.

With claim 10, it is well known in the art that a conventional fastener (F) is a screw.

With claims 12 and 21, the base has an anchor belt surface formed to extend between the openings of the base.

With claim 13, the base bottom includes a storage compartment (60) for receiving the anchor belt in a stowed position (see col. 7, lines 9-15 and Figure 10).

With claim 14, the storage compartment (60) is positioned adjacent the anchor belt surface.

With claim 16, the limitations are discussed in claims 1,3, and 13 above.

With claim 17, the limitations are discussed in claims 1 and 2 above.

With claim 18, the limitations are discussed in claim 1 above.

With claim 25, the limitations are discussed in claims 1 and 2 above.

Furthermore, it is interpreted that the leash (70) has an end coupled to the base and another end inside of the base (see Figure 10). Please note that the phrase "for coupling to the anchor mounts" is considered to be functional language, and therefore, does not have any patentable weight.

With claim 26, the limitations are discussed in claim 1 above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berringer et al in view of Bizilia.

Berringer et al disclose the claimed invention except for the fastener to be a rivet.

Bizilia teaches a foot holding device comprising the use of rivets (16) to attach the straps (12) together. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a rivet (16) of Bizilia's invention in lieu of the conventional fastener (F) of Berringer et al's invention in order to attach the leash (70) to the base. The examiner takes Official Notice of the equivalence of a conventional fastener (screw) and a rivet for their use as fastening means and the selection of any of these known equivalents to attach the leash to the base in Berringer's invention et al would be within the level of ordinary skill in the art.

### ***Remarks***

The examiner has considered and acknowledged the applicant's comments in the Amendment, filed on March 2, 2004. Based on an updated prior art search of the application, the examiner decided to issue a new prior art rejection. Accordingly, this Office action is considered to be Non-final.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cone and Gordy et al are cited as showing similar types of anchor system for a seat base.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Stephen Vu  
June 1, 2004

# APPENDIX A

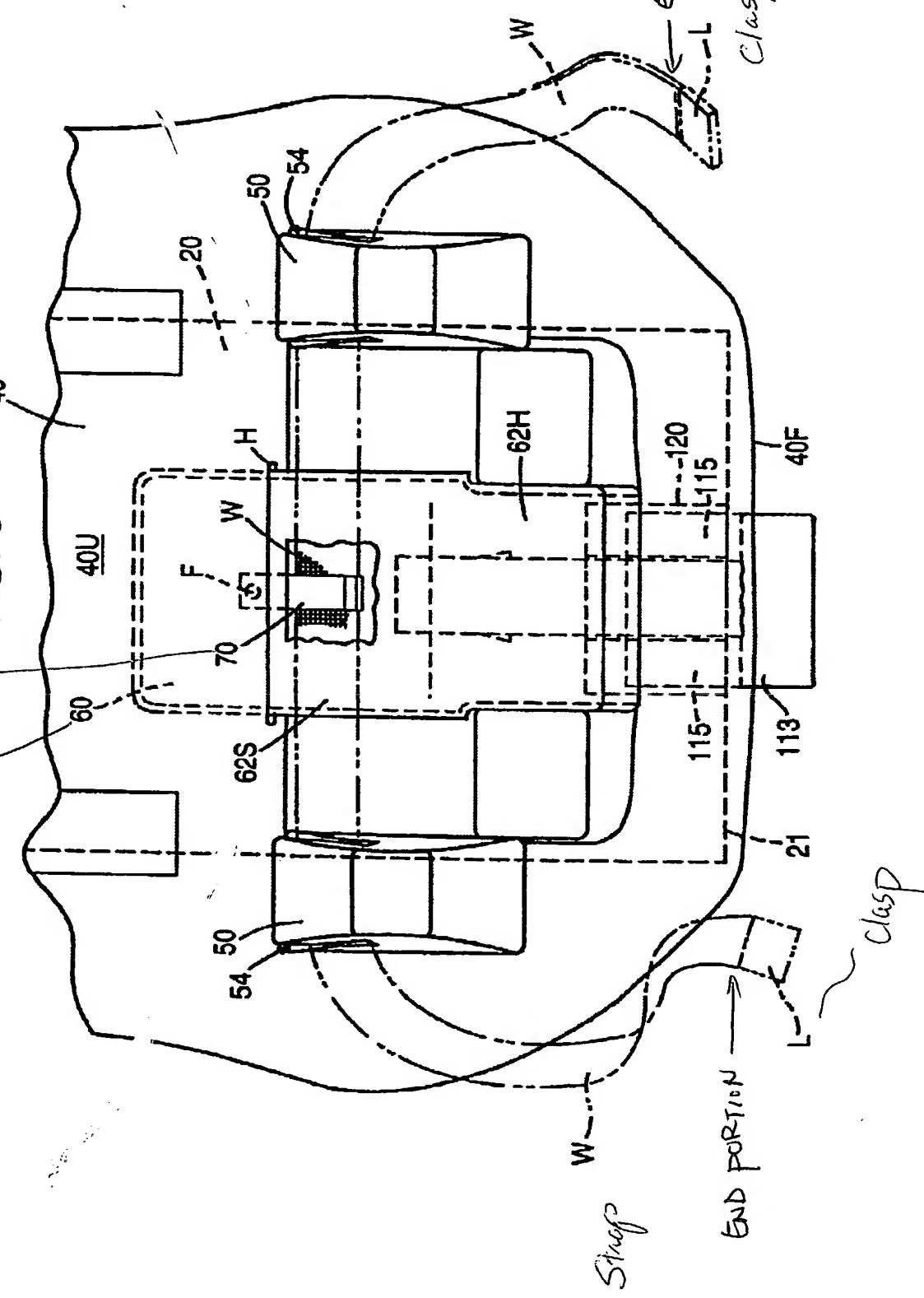
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**FIG. 9**



## APPENDIX

(B)

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